

REMARKS

Applicants have carefully reviewed the Office Action dated September 12, 2002. With this amendment, claims 1, 3, 19 and 41 have been amended. Claim 2 has been cancelled. Claims 1, 3-34 and 41 remain pending.

The Examiner has asserted that restriction to one invention is required under 35 U.S.C. §121. A provisional election of Group I, corresponding to claims 1-34 and 41, was made on August 19, 2002. Applicants hereby affirm this election.

Claims 1, 2 and 41 are rejected under 35 U.S.C. §102(e) as being anticipated by Samson et al. in U.S. Patent No. 6,090,099. Applicants respectfully traverse this rejection. It can be seen that amended claims 1 and 41 now include the limitation that the distal tip includes a shapeable length and that the distal terminus is set back from the distal end a distance equal to or greater than the shapeable length (previously recited in claim 2, which is now cancelled). This feature allows the shaft to be generally softer near the distal end and/or may be more shapeable (please see, for example, page 6, lines 6-13). The Examiner has asserted on page 4 of the Office Action that Samson et al. show a shapeable length in Figures 1 and 2. Applicants respectfully disagree. Turning now to Figure 2 of Samson et al., stiffening member 204 appears to truncate near the distal end of the shaft. The exact position of the distal end of stiffening member 204, however, is not clearly shown. It appears that if the stiffening member was set back a proximal distance, the distance would not be sufficient to allow any shaping of the distal tip. Additionally, the naming of members 202/204 by Samson et al. as "stiffening members" strongly suggests that the distal tip lacks any form of shapeable tip or that any portion of the catheter is set back a distance greater than or equal to a shapeable length. At the very most, the distance that stiffening member 204 could be set back would be about equal to the thickness of stiffening member 202 disposed

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Shapeable
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is
lacking

over stiffening member 204. The thickness of stiffening member 202 is stated to be about 0.0005 to 0.0015. Sampson et al. at column 6, lines 1-2.

Moreover, Samson et al. state that stiffening member 202 and stiffening member 204 have a similar axial length. Sampson et al. at column 6, lines 1 through 12. Thus, Samson et al. do not disclose the structural feature of having a second layer that is set back from the distal end of the shaft a distance greater than or equal to the shapeable length, or teach any benefit of including this structural feature. Instead, Samson et al. teach away from Applicants' claimed structural features. Therefore, Applicants respectfully submit that Samson et al. fail to disclose all of the structural limitations of Applicants' claimed invention and that the above amendments overcome the rejection under 35 U.S.C. §102(e).

Claims 1, 2 and 41 are rejected under 35 U.S.C. §102(b) as being anticipated by Jang et al. in U.S. Patent No. 4,898,591. Claim 2 has been cancelled. The Examiner has indicated that Jang et al. disclose a distal tip having a shapeable length. Applicants' amended claims 1 and 41 now include the limitation that the fourth layer extends to the distal end of the shaft. In contrast, the fourth or outermost layer 32 of the distal tip of Jang et al. is terminated proximally of the distal tip. Applicants respectfully submit that the above amendments distinguish claims 1 and 41 from Jang et al. and overcome the rejection under 35 U.S.C. §102(b).

Claims 1-6, 8-11, 13, 14, 15, 17 and 18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Sampson et al. Claim 2 has been cancelled. As stated above, claim 1 is distinguishable from Sampson et al. due to the limitation of the distal terminus being set back a distance greater than or equal to the shapeable length of the catheter. Accordingly, Applicants respectfully submit that the above amendments define a structural difference between Sampson et al. and Applicants' claimed invention and that claim 1 is in condition for allowance. Because

claims 3-6, 8-11, 13, 14, 15, 17 and 18 depend from an allowable base claim, they are allowable based on this amendment and because they add significant elements to distinguish them from the prior art.

Claims 1-5, 7-14, 17, 18 and 41 are rejected under 35 U.S.C. §103(a) as being unpatentable over Jang et al. Claim 2 has been cancelled. As stated above, claims 1 and 41 are distinguishable from Jang et al. due to the limitation of the fourth layer extending to the distal end of the shaft. Accordingly, Applicants respectfully submit that the above amendments define a structural difference between Jang et al. and Applicants' claimed invention and that claims 1 and 41 are in condition for allowance. Because claims 3-5, 7-14, 17 and 18 depend from an allowable base claim, they are allowable based on this amendment and because they add significant elements to distinguish them from the prior art.

Claims 1-34 and 41 are rejected under 35 U.S.C. §103(a) as being unpatentable over Sampson et al. in view of Nita et al. in U.S. Patent No. 5,951,539. Claim 2 has been cancelled. As stated above, claims 1 and 41 are distinguishable over Sampson et al. due to the limitation of the distal terminus being set back a distance greater than or equal to the shapeable length of the catheter. Independent claim 19 has been amended to also include this limitation and is, thus, distinguishable from Sampson et al. Nita et al. similarly fail to disclose this structural limitation. Accordingly, Applicants respectfully submit that the above amendments distinguish Applicants' claimed invention from Sampson et al. and Nita et al., and that claims 1, 19 and 41 are in condition for allowance. Because claims 3-18 depend from claim 1 and because claims 20-34 depend from claim 19, they are allowable based on this amendment and because they add significant elements to distinguish them from the prior art.

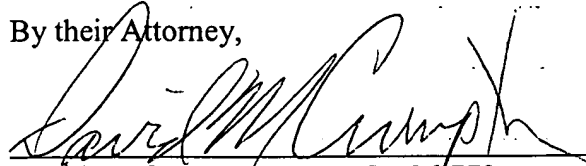
Claims 1-34 and 41 are rejected under 35 U.S.C. §103(a) as being unpatentable over Jang et al. in view of Nita et al. Claim 2 has been cancelled. As stated above, claims 1 and 41 are distinguishable over Jang et al. due to the limitation of the fourth layer extending to the distal end of the shaft. Independent claim 19 has been amended to also include this limitation and is, thus, distinguishable from Jang et al. Nita et al. similarly fail to disclose this structural limitation. Accordingly, Applicants respectfully submit that the above amendments distinguish Applicants' claimed invention from Jang et al. and Nita et al., and that claims 1, 19 and 41 are in condition for allowance. Because claims 3-18 depend from claim 1 and because claims 20-34 depend from claim 19, they are allowable based on this amendment and because they add significant elements to distinguish them from the prior art.

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims, namely claims 1, 3-34 and 41, are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Ting Tina Ye et al.

By their Attorney,



David M. Crompton, Reg. No. 36,772
CROMPTON, SEAGER & TUFTE, LLC
331 Second Avenue South, Suite 895
Minneapolis, Minnesota 55401-2246
Telephone: (612) 677-9050
Facsimile: (612) 359-9349

Date: 12/12/02

Version with Markings to Show Changes Made

In the Claims:

Claim 2 has been cancelled.

Claims 1, 3, 19 and 41 have been amended as follows:

1. (Once Amended) An intravascular catheter, comprising:
an elongate shaft having a proximal end, a distal end, and a distal tip having a shapeable
length, the elongate shaft including:
an inner liner;
a second layer disposed over the inner liner, the second layer extending from the
proximal end of the shaft to a distal terminus;
wherein the distal terminus is set back from the distal end of the shaft a distance equal to
or greater than the shapeable length;
a third layer disposed over the second layer; and
a fourth layer disposed over the third layer, the fourth layer including a proximal end and
a distal end, the distal end of the fourth layer extending to the distal end of the shaft.

3. (Once Amended) The catheter in accordance with claim 1 [2], wherein the distal terminus is about 4 millimeters from the distal end of the shaft.

19. (Once Amended) An intravascular catheter, comprising:
an elongate shaft having a proximal end, a distal end, and a distal tip having a shapeable
[shapable] length, the elongate shaft including:
an inner liner;
a second layer disposed over the inner liner, the second layer extending from the
proximal end of the shaft to a distal terminus, wherein the distal terminus is set back from the
distal end of the shaft a distance equal to or greater than the shapeable [shapable] length;
a third layer disposed over the second layer; the third layer including a single coil region
near the distal end of the shaft and a multiple coil region near the proximal end of the shaft; and

a fourth layer disposed over the third layer, the fourth layer including a proximal end and a distal end, wherein the durometer at the proximal end is greater than the durometer at the distal end, the distal end of the fourth layer extending to the distal end of the shaft.

41. (Once Amended) An intravascular catheter, comprising:
an elongate shaft having a proximal end, a distal end, and a distal tip having a shapeable length, the elongate shaft including:
an inner liner;
a second layer disposed over the inner liner, the second layer including a first segment extending from the proximal end of the shaft to a distal terminus[,] and a second segment extending from the distal terminus to the proximal end;
wherein the distal terminus is set back from the distal end of the shaft a distance equal to or greater than the shapeable length;
a third layer disposed over the second layer; and
a fourth layer disposed over the third layer, the fourth layer including a proximal end and a distal end, the distal end of the fourth layer extending to the distal end of the shaft.